

**TOWNSHIP OF NEW SEWICKLEY**

**ORDINANCE NO. 231**

**AN ORDINANCE OF THE TOWNSHIP OF NEW SEWICKLEY, COUNTY OF BEAVER, COMMONWEALTH OF PENNSYLVANIA, , ISSUING NEW STANDARDS AND PROCEDURES REGULATING CRYPTOCURRENCY MINING OPERATIONS, SERVER FARMS, AND/OR DATA CENTERS THEREWITH, REQUIRING THE FILING OF INFORMATION REGARDING LOCATING AND OPERATIONS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.**

**WHEREAS**, as authorized by the Pennsylvania Municipalities Planning Code (MPC), the Board of Supervisors of the Township of New Sewickley regulates land use and zoning within the Township through its comprehensive Zoning Ordinance;

**WHEREAS**, upon the recommendation of Township Staff and the Township Planning Commission, the Township Board of Supervisors seeks to amend various provisions of its Zoning Ordinance, as follows: Amend the definitions of Article 2, Section 201; and amend the Table of Authorized Uses in the LI Light Industrial District to allow “Cryptocurrency mining” as a Conditional Use; and, adding specific conditional use criteria for “Crypto Currency Mining”.

**WHEREAS**, the Township has, in accordance with the requirements of the MPC, submitted the proposed amendments to its Planning Commission, which gave its recommendations regarding the proposed amendments at a duly noticed public meeting;

**WHEREAS**, on Aug 1, 2023, the Township Board of Supervisors held a duly noticed, advertised, and posted public hearing to take public comment on the proposed zoning ordinance text amendments; and

**WHEREAS**, the Township Board of Supervisors, having received such public comment as may have been given at the Public Hearing, and having received the recommendations of the Township’s Planning Commission, finds that enactment of the proposed zoning amendments will be beneficial to the health, safety, and welfare of the Township and consistent with the PA MPC.

NOW THEREFORE, be it Ordained and Enacted by the Township of New Sewickley Board of Supervisors, and it is hereby Ordained and Enacted by authority of same, as follows:

**SECTION 1: AMENDMENTS REGARDING CRYPTOCURRENCY MINING AS A CONDITIONAL USE IN THE LI LIGHT INDUSTRIAL ZONING DISTRICT.**

That the Township Zoning Ordinance, Ordinance No. 208, as amended, is hereby further amended as follows:

1. Add the following definitions to Article 2, Section 201 (to be placed in alphabetical order):
  - i. **Accessory Building or Structure:** For the purposes of this Ordinance, buildings or structures that are authorized under the Zoning Ordinance as subordinate and auxiliary to the principal uses and buildings on the same lot. Said buildings or structures shall be limited to those that commonly belong, are compatible with and are ordinarily utilized in association with a principal use. *(For reference from Section 2: Meaning of Words)*
  - ii. **Accessory Use:** Any use which is subordinate and auxiliary to the principal use.
  - iii. **Applicant:** Any person, operator, partnership, company or corporation, including their subcontractors and agents, who have an interest in Cryptocurrency mining in the Township.
  - iv. **Alternative Energy Credits (AEC):** An AEC is created for each 1,000 kWh of electricity from a qualified alternative energy source. The AEC is then sold or traded separately from the power. This makes it easier for individuals and businesses to finance and invest in alternative energy.
  - v. **Best and Safest Route:** One or more roads leading to a proposed crypto currency mining operation or development which are characterized by containing the fewest number of residential dwellings, having the fewest impediments to line of sight for vehicles, and the least horizontal and vertical road geometry.
  - vi. **Cryptocurrency:** Digital or virtual currency is an electronic medium of exchange that is not a representation of U.S. or foreign currency. Units of cryptocurrency are generally referred to as coins or tokens. Cryptocurrency is a type of digital currency that utilizes cryptography to secure transactions that are digitally recorded on a distributed ledger, such as a blockchain. Distributed ledger technology uses independent digital systems to record, share, and synchronize transactions, the details of which are recorded in multiple places at the same time with no central data store or administration functionality.
  - vii. **Cryptocurrency mining:** Cryptocurrency mining is a data centered

business. The operation of specialized computer equipment for the purpose of mining one or more blockchain-based cryptocurrencies, such as Bitcoin. This activity, which is also termed “proof of work,” involves the solving of algorithms as part of the development and maintenance of a blockchain which is a type of distributed ledger maintained on a peer- to-peer network. Typical physical characteristics of cryptocurrency mining include specialized computer hardware for mining operations as well as equipment to cool the hardware and operating space. For the purposes of the associated regulations, cryptocurrency mining does not include the exchange of cryptocurrency or any other type of virtual currency nor does it encompass the use, creation, or maintenance of all types of peer-to-peer distributed ledgers.

- viii. **DEP (the Department):** The Department of Environmental Protection of the Commonwealth of Pennsylvania.
- ix. **Drilling Production Unit:** Land Owners whose land falls within the designated boundaries of a drilling area and who receive a pro-rated share of the unit royalties.
- x. **Existing Protected Building:** An occupied structure with walls and a roof, within which individuals live or customarily work, and which was occupied, or for sale or lease for occupancy, at the time a Cryptocurrency mining operations application is made. Excluded are buildings used exclusively for accessory use of agricultural operations, or other accessory storage buildings. For the purpose of cryptocurrency mining only, any structure owned by a lessor who has signed a lease with the applicant granting rights to access resources upon the subject property shall also not be considered an existing protected building. Also excluded from this definition are any structures used exclusively for cryptocurrency mining or the conversion of resources to power the mining.
- xi. **Hashrate:** The total combined computational power used to mine Bitcoin and process transactions.
- xii. **Nonrenewable Energy:** Oil, gas or coal are non-renewable energy sources.
- xiii. **Producer:** Per PA Act 13, A person or its subsidiary, affiliate or holding company that holds a permit or other authorization to engage in the business of severing natural gas for sale, profit or commercial use from an unconventional gas well in this Commonwealth.
- xiv. **Alternative-energy:** Energy which is produced using methods that do not deplete the source and are naturally replenished on a human time scale. The following are methods of producing renewable energy: Solar, Wind, Geothermal, Hydroelectric; Landfill or farm-based methane gas; Gas produced from the treatment of wastewater; Low-emission, non-toxic biomass energy based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have



been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome arsenic; and Hydrogen derived from any of the sources listed above for use in fuel cells.

- xv. **Alternative Energy Portfolio Standards Act of 2004 (AEPS).** The AEPS Act was established by the Pennsylvania Act 213 of 2004 and was enacted to provide economic development opportunities by increasing the mix of alternative electricity generation. The AEPS Act also required electric distribution companies (EDCs) and electric generation suppliers (EGSs) include a percentage of electricity from alternative resources.

2. Amend Article 3, Section 307, Table 307A to add the term “Cryptocurrency Mining” (See Section 446)” to the list of permitted conditional uses.
3. Amend Article 4, to add Section 446 “Cryptocurrency Mining” as follows:

- A. Cryptocurrency operations shall be required to describe the structure of their company, and joint ventures, land leases.
- B. The operator shall provide signed authorization from the land owner consenting to the Cryptocurrency operations, associated structures and application for conditional use.
- C. The operator shall notify the land owner and all persons or entities that comprise the drilling production unit prior to application for conditional use.
- D. Cryptocurrency mining facilities may locate only in LI (Light Industrial).
- E. Cryptocurrency mining facilities shall be reviewed as a conditional use in compliance with Article 4, except if adjacent to a residential district (excluding roads and other rights -of -way) or within 500’ of residential property boundary when they shall be reviewed as a special exception.
- F. Cryptocurrency mining shall be the principal use unless it is collocated with a well pad, where it will be an accessory use with accessory structures, compatible with the principal use.
- G. These facilities shall be required to demonstrate their anticipated broadband requirements and establish that their activity will not disrupt common use of broadband.
- H. These facilities shall be required to demonstrate their power source, Hashrate (anticipated power requirements) and establish that their activity will not disrupt common use of the power grid.
- I. Where the cryptocurrency mining operation intends to derive their power from the power grid, cryptocurrency mining will be considered the primary use.
  - (1) The operator shall provide evidence that they have coordinated their Hashrate (anticipated power requirements) with the power provider(s) to minimize

disruptions of service and avoid unplanned rate increases to Township residents and businesses.

- (2) The operator shall provide an audit of their projected carbon emissions.
  - (3) The operator shall provide a plan for reducing 100 percent of their emissions through on-site mitigation or purchase of Alternative Energy Credits available from electric distribution companies (EDCs) and electric generation suppliers in keeping with the PA Alternative Energy Portfolio Standards Act of 2004 (AEPS).
- J. Where the cryptocurrency mining operation intends to derive their power from an oil or gas well pad, cryptocurrency mining will be considered an accessory use and the extraction is the primary use.
- (1) Where the cryptocurrency mining operation intends to derive their power from an oil or gas well pad, all requirements of Article 9 shall apply.
  - (2) Where the cryptocurrency mining operation intends to derive their power from an oil or gas well pad, all requirements of Act 13 shall apply.
- K. Verification must be provided that all waste generated at the cryptocurrency mining operation will be handled by a DEQ-licensed waste recycling firm. The Applicant should maximize coordination between any state and federal permitted system and conditional approval requirements to the maximum extent practicable.
- L. Warning signs shall be placed on the fencing or boundary surrounding the Site providing notice of the potential dangers and the contact information in case of an emergency.
- M. Lighting at the cryptocurrency mining site, either temporary or permanent shall be directed downward and inward toward the activity, to the extent practicable, so as to minimize the glare on public roads and adjacent property and nearby buildings.
- N. The primary access road to any cryptocurrency mining site shall be improved to a dustless all-weather surface that prevents stormwater erosion or sedimentation from being carried on to a public roadway.
- O. The Application for conditional use approval shall include perspective and section sketch(s) to show the potential visual impact of the site upon abutting developed properties and clearly illustrates the use of screening and buffering through natural forest, opaque fencing, or planted screening. At a minimum, the perspective sketch shall be made from the perspective of the road entrance and any residential dwellings within the viewshed. This perspective sketch shall be from a perspective of at least six (6) feet and no greater than 20 feet above existing grade.
- (1) In the development of cryptocurrency mining sites, the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation.
  - (2) Cryptocurrency mining that are surrounded by existing woodland to an average depth of seventy-five (75) feet on the same parcel, are exempt from further screening or buffering requirements when permitted uses. Other permitted uses

shall install either a single row of coniferous trees of at least eight (8) feet in height, and planted on all sides (sufficient to provide complete screening in five years) or install opaque fencing of at least eight (8) feet in height during active operations. Trees shall be planted within six months of the date that the grading is complete.

- P. The Applicant shall agree to scheduled inspections of the site
- (1) During construction to ensure that development conforms to the approved plan, or provide as-built drawing with all improvements certified as true and correct by a registered engineer or surveyor.
  - (2) Yearly or at the instance of a complaint to ensure the development continues to conform to nuisance and pollution prevention measures.
- Q. Twenty-four (24) hour onsite supervision and security shall be provided by the applicant during the initial development of the site.
- R. To prevent land use conflict, and ensure harmonious development in a mixed-use setting, the Township shall consider the following as reasonable additional conditions of approval and safeguard.
- (1) Changes in the proposed location of best and safest routes to prevent traffic hazards, congestion, or the impacts of well service traffic upon residential streets.
  - (2) Construction of four-sided buildings which contains the mining equipment 100 percent.
  - (3) Installation of sound and vibration attenuation on and around the mining equipment, to address issues of tonal noise pollution, tonal and vibration impacts.
  - (4) Installation of buffer yards to muffle sound and light from mining sites. Buffer yards shall include a combination of landscape, berms or fences and shall be based upon the applicants landscaping plan required under section 904R.
  - (5) Reduction of Setbacks by as much as 50 percent from road rights of way or unprotected buildings and structures; if accompanied by an equal and corresponding increase in setbacks from existing protected buildings.
- S. Section 508 Performance Standards and all Township ordinances with regards to nuisance (noise, sound, light, air) pollution shall apply.
- T. All cryptocurrency mining operations, server farms, and/or data centers, including all ancillary equipment/operations for purposes such as cooling, shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding properties and not cause the dissemination of dust, smoke, glare, heat, vibration or noise in excess of the maximum environmental noise level established by Township ordinance beyond the property line or affecting adjacent buildings. Violation of established noise levels will result in revocation of a Township business license.
- (1) Permanent structures associated with cryptocurrency mining, both principal and

accessory, shall comply with the height regulations, coverage standards, lot size, building size and total number of buildings for the zoning district in which the operation is located.

- (2) No facade shall have more than twenty percent (20%) of the area exposed with apparatus (e.g., vents, fans, HVAC systems, etc.).
- (3) Any use or activity producing air, noise, vibrations, exhaust, heat, or humidity in any form shall be carried on in such a manner that it is not perceptible at the property line and within 25' of any receiving building.
- (4) Electric fields and magnetic fields shall not be created that adversely affect the public health, safety, and welfare, including but not limited to interference with the normal operation of equipment or instruments or normal radio, telephone, or television reception from off the premises where the activity is conducted.
- (5) Noise emanating from a use or activity within an industrial zone which exceeds the maximum permissible noise levels set forth in Section 508 Performance Standards and this chapter shall not be permitted. Including noise levels and tonal noise from a Cryptocurrency Mining operation.
  - i. As part of the application, calculations for anticipated Noise levels shall be verified by a qualified professional.
  - ii. Post construction, noise levels will be measured by a qualified professional to verify they are within the parameters of the Section 508 Performance Standards.

U. Non-conforming cryptocurrency mining operations. A lawful cryptocurrency mining use existing on the effective date of this zoning ordinance which would not be allowed under the terms of these regulations may continue so long as it remains otherwise lawful, subject to the following conditions:

- (1) Existing structures devoted to nonconforming cryptocurrency mining operations shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to change the complete use of the structure to a use that conforms with these regulations.
- (2) May be expanded or extended to unoccupied portions of the building or to other buildings only if the expanded or extended portion of the operation conforms with these regulations.
- (3) Any nonconforming cryptocurrency mining operation may be replaced by the same use only in compliance with these regulations.
- (4) If a nonconforming cryptocurrency mining operation is discontinued or abandoned for one hundred eighty (180) days or a nonconforming cryptocurrency mining operation is replaced by a conforming use at any time, the structure shall thereafter be used in conformance with these regulations.
- (5) Removal or destruction of a structure occupied by a nonconforming use shall

eliminate the nonconforming status of the use.

- (6) Any structure occupied by a nonconforming cryptocurrency mining use that is destroyed by any means such that the cost of reconstruction amounts to more than fifty percent (50%) of the total building replacement cost (exclusive of building foundation) shall thereafter be used in conformance with these regulations.
- V. Construction operations shall be restricted to the hours of 6:00 am to 9:00 pm. This restriction does not include maintenance.
- W. In the case of conditional use, the Township reserves the right to impose other conditions and safeguards.
- X. Permits and Application Process.
- (1) The Applicant should maximize coordination between the state and federal permitted system and conditional approval to the maximum extent practicable.
  - (2) A pre-application meeting is strongly encouraged with the Township planning commission to avoid delays in the approval process. A conceptual sketch should be brought to this pre-application meeting to show the potential visual impact of the site upon abutting developed properties.
  - (3) No development of a Cryptocurrency mining facility shall be undertaken in the Township unless an application shall be submitted together with a fee established by resolution. An application shall contain the following information:
  - (4) A narrative describing an overview of the project including the number of acres to be involved, the location of the primary structure and all accessory structures (including proposed function) and a description of equipment to be used, to the extent known, the energy supply; hours of operation.
  - (5) The address of the site of operations. Contact information of the individual or individuals responsible for the operation and activities at the site shall be provided to the Township and all Emergency Responders. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three hundred sixty-five days a year. Annually, or upon any change of relevant circumstances, the Applicant shall update such information and provide it to the Township and all Emergency Responders.
  - (6) A Copy of the applicant's Emergency Response Plan. In absence of this, an emergency management plan which includes a post construction accident contact protocols that specifically address major equipment failure, vandalism or other hazards. The Applicant, upon changes occurring to the operations Emergency Response Plan will provide to the Township and all Emergency Responders the dated revised copy of the Emergency Response Plan.
  - (7) The Applicant shall offer an on-site orientation to the Emergency Response Plan for all Emergency Responders. The cost and expense of the orientation and training shall be the sole responsibility of the Applicant. The Applicant shall not be required to offer more than one site orientation annually under this section.



- (8) Location map of the site development showing the approximate location of equipment and structures, and all permanent improvements to the site and any post construction surface disturbance in relation to natural and other surroundings. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the development and use of the site. Such location shall be configured to allow the normal flow of traffic on public streets to be undisturbed.
- (9) A narrative and map describing the manner and routes for the transportation and delivery of equipment, machinery, and any other materials used in on the site, showing the proposed best and safest routes.
- (10) Certification satisfactory to the Township that, prior to the commencement of operations, the Applicant shall have accepted and complied with any applicable bonding and permitting requirements; when applicable, due to anticipated transport of equipment to the site, the applicant shall have entered into a Township roadway maintenance and repair agreement, in a form acceptable to the Township solicitor, regarding the maintenance and repair of affected Township roads.
- (11) A description of, and commitment to maintain, safeguards that shall be taken by the Applicant to ensure that Township roads utilized by the Applicant shall remain free of dirt, mud and debris resulting from site development activities; and the Applicant's assurance that such streets will be promptly swept or cleaned of dirt, mud and debris occurring as a result of Applicant's usage.
- (12) Copies of the documents submitted to the Department regarding environmental impacts of the project, or if no documents have been submitted to the Department, a narrative describing the environmental impacts erosion and sedimentation controls and stormwater management best management practices anticipated of the proposed project on the site and surrounding land and measures proposed to protect or mitigate such impacts, as well as copies of all permits issued by appropriate regulatory agencies or authorities relating thereto. If permits have not been issued at the time of application, the Applicant shall submit copies of the appropriate permit applications.
- (13) Copies of all permits and plans from the appropriate state or federal regulatory agencies or authorities issued in accordance with applicable laws and regulations for the proposed use. If permits have not been issued at the time of application, the Applicant shall submit copies of the appropriate permit applications, and the status of the applications with the approving agency.
- (14) Copy of erosion and sedimentation control plan and post construction stormwater management plans as required.
- (15) Within 15 business days after receipt of a permit application and the required fee, the Township will determine whether the application is complete and shall advise the Applicant accordingly. If the application is incomplete the Township shall so notify the Applicant who may resubmit the completed application. The Township shall issue or deny the permit for permitted uses within 30 days following receipt of the completed application.

## Y. Indemnification.

- (1) Requirement to Indemnify and Hold Harmless. Each person that constructs, owns, operates, maintains, or removes a Cryptocurrency mining operation shall, at its sole cost and expense, indemnify, defend and hold harmless the Municipality, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including, but not limited to, death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, operation, maintenance or removal of each of its facility.
- (2) Requirement to Defend. Each person that constructs, owns, operates, maintains, or removes a Cryptocurrency mining operation shall defend any actions or proceedings against the Municipality in which it is claimed that personal injury, including, but not limited to, death, or property damage was caused by the construction, operation, maintenance or removal of each of its facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs, and all other costs of indemnification.
- (3) Indemnification and Hold Harmless Agreement Requirement. Prior to the initial commencement of any construction, operation, maintenance, or removal, each person that construct, owns, operates, maintains, or removes a Cryptocurrency mining operation shall furnish an "Indemnification and Hold Harmless Agreement" to the New Sewickley Township Manager.

## **SECTION 2: REPEALER.**

That any and all previous Ordinance(s) which are inconsistent with the terms and provisions of this Ordinance are hereby repealed.

## **SECTION 3: SEVERABILITY.**

That if any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 4: EFFECTIVE DATE.**

That this Ordinance shall take effect immediately upon enactment as provided by law.

ORDAINED AND ENACTED into law this 1<sup>st</sup> day of August, 2023.

**ATTEST:**

**TOWNSHIP OF NEW SEWICKLEY**

  
Township Secretary

BY:   
Chairman, Board of Supervisors


BY:   
Member, Board of Supervisors

BY:   
Member, Board of Supervisors

BY:   
Member, Board of Supervisors

BY:   
Member, Board of Supervisors

**APPROVED AS TO FORM:**

  
Solicitor